

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CALVIN C. LOGAN, DAVID JOHNSON,	:	CIVIL ACTION
ANDRE MARTIN, and others similarly	:	
situated,	:	
	:	
vs.	:	
	:	
F. EMMET FITZPATRICK, LYNN	:	NO. 06-4450
ABRAHAM, PHILADELPHIA DISTRICT	:	
ATTORNEY'S OFFICE, ROBERT P.	:	
KANE, THOMAS W. CORBETT JR., and	:	
PENNSYLVANIA ATTORNEY	:	
GENERAL'S OFFICE	:	

**MEMORANDUM**

**ROBERT F. KELLY, Sr. J.**

**MAY 22, 2008**

On May 3, 2007, this Court dismissed Plaintiffs' Complaint. Document No. 11.

On May 10, 2007, Plaintiffs' moved to vacate that judgment. Document No. 12. On June 20, 2007 in an Memorandum and Order, in which we treated the May 10, 2007 Document 12 motion as a motion to reconsider, we entered an Order denying the motion. See Document No. 13.

On September 28, 2007 a notice of appeal was filed. Document No. 15. On October 1, 2007, Plaintiffs filed a notice in this Court styled "Omnibus Motion for Relief/Notice of Appeal", Document No. 14, which we denied as moot because the case had already been appealed.

On May 21, 2008, this case was remanded from the Third Circuit Court of Appeals with directions for this Court to dispose of the "Omnibus Motion for Relief" as a motion under Fed. R. App. P. 4(a)(6), to reopen the time to file an appeal.

In that motion Plaintiffs contend that they did not receive notice of our June 20, 2007 Memorandum and Order until September 20, 2007, when the District Court Clerk responded to their inquiries. Hand written notations of the docket clerk indicate that copies of our June 20, 2007 decision were mailed to each of the plaintiffs on June 20, 2007. See Attachment A.

I therefore find that the Clerk of Court's Office did in fact mail copies of the decision in question to each of the plaintiffs. Because I do not know what happened after they reached the prison and because of the attentive manner in which the plaintiffs pursued this case up to that point, I accept their statement that they did not receive notice of the June 20, 2007 decision until they made a follow-up inquiry with our Clerk's Office on September 20, 2007.

I find also that the Omnibus Motion requesting relief was timely filed and that no party will be prejudiced by the filing of this Order.

I therefore enter the following Order.

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KANE, THOMAS W. CORBETT JR., and	:	
PENNSYLVANIA ATTORNEY	:	
GENERAL'S OFFICE	:	

**ORDER**

**AND NOW**, this 22nd day of May, 2008, it is hereby **ORDERED** that Plaintiffs'

Calvin C. Logan, David Johnson and Andre Martin are granted fourteen (14) days from the date of this Order to file an appeal to the Third Circuit Court of Appeals.

BY THE COURT:

/s/ Robert F. Kelly  
ROBERT F. KELLY  
SENIOR JUDGE